

REMARKS

The Office examined claims 1, 2 and 4-24 and rejected same. With this paper, the claims are unchanged.

Rejections under 35 USC §103

At section 3 of the Office action, claims 1, 11 and 24 are still rejected under 35 USC §103(a) as being unpatentable over Kim (U.S. Pat. No. 6,597,918) in view of Wakatsuki (U.S. Pat. No. 6,792,450).

Applicant would first of all like to thank the Examiner for a clarifying telephone call regarding the Office action on 2 June 2005 (and referred to below).

As in the previous Office action, the Examiner asserts that Kim discloses the invention as in claims 1, 11 and 24 except for disclosing "the plurality of frames to be frames of a funny," and so relies on Wakatsuki for disclosing "the use of a plurality of frames to be frames of a funny (note figures 7a-7c) ... ."

Regarding method claim 1, in applicant's response to the previous Office action applicant argued that there is no teaching by Kim of at least the first step recited in claim 1, namely, a sending terminal assembling a plurality of messages in a desired order according to inputs by a user, i.e. gathering a plurality of messages together and ordering them according to inputs by a user. All that is disclosed in Kim is breaking up a long message into components, sending the message to a receiving terminal, and the receiving terminal then reassembling the components to reform the long message. Although Kim does disclose a *receiving* terminal reassembling a long message from received components, that it not at all the same as a *sending* terminal assembling a plurality of messages in a desired order according to inputs by a user. Such a step obviously entails the sending terminal (not the receiving terminal) ordering several different messages--any

one of which could be a long message and sent according to the teachings of Kim bearing in mind the third recited step of claim 1--in an order indicated by a user. Even disregarding that in claim 1 it is the sending terminal that "assembles," and that in Kim it is the receiving terminal that "assembles," the assembling in Kim is utterly different from the assembling in claim 1. Thus, Kim cannot fairly be asserted to teach or suggest the invention as in claim 1 irrespective of the limitation in claim 1 regarding the plurality of messages conveying a plurality of frames of a funny.

The same argument applies to the first element recited in apparatus claim 11. Thus, Kim cannot fairly be asserted to teach or suggest the invention as in claim 11 irrespective of the limitation in claim 1 regarding the plurality of messages conveying a plurality of frames of a funny.

Regarding system claim 24, a sending terminal is recited therein for conveying to a receiving terminal via a wireless communications network a plurality of messages, and including in each message ordering information indicating a position for the message in a desired ordering of the plurality of messages. Applicant respectfully submits that the limitation "in a desired ordering of the plurality of messages" distinguishes the invention as in claim 24 from the teachings of Kim in which component messages are sent including information indicating a position in a long messages according to an automatic dividing up process of the long message. Thus, Kim cannot fairly be asserted to teach or suggest the invention as in claim 24 irrespective of the limitation in claim 1 regarding the plurality of messages conveying a plurality of frames of a funny.

Further regarding claim 1, applicant's attorney did discuss the final Office action with the Examiner (by telephone, on 1 June 2005), and the Examiner explained that since Kim discloses

the receiving terminal reassembling the components of the long message so as to recompose the long message, the Examiner is of the opinion that Kim does disclose the first step recited in claim 1.

Applicant respectfully submits that--in addition to the basic argument made above, that Kim does not teach or suggest a terminal (sending or receiving) assembling messages in a desired order according to inputs by a user--claim 1 recites steps in a particular, logical order, and it is well-settled that when a claim does recite steps in such a way that the order is expressly or impliedly limited, the scope of the claim is so limited. The first step recited in claim 1 is for a sending terminal to assemble the plurality of messages in a desired order according to inputs by a user. The next step recited is for the sending terminal to indicate in each message the order of the message in the desired order. The last step recited is for the sending terminal to send all of the messages to a receiving terminal in response to an input by the user. The ordering of the messages in response to inputs by the user must be done first (in the first recited step), before the order of a message can be indicated (in the second recited step), and the order of a message must be indicated before the message is sent to the receiving terminal (in the third recited step). Thus, even assuming, arguendo, that Kim teaches the first step recited in claim 1, Kim cannot be said to teach or suggest the method of claim 1 (irrespective of what the messages convey) because Kim teaches performing the first recited step last, but by the claim language the first recited step must be performed first.

Applicant's attorney notes that although the recited order of steps of a method claim need not limit the scope of the claim, nevertheless where the order is specified in the claim, as here by virtue of the tying together of the steps of the claims (each subsequent step using the result of the previous), the scope of

the claim is limited to a method in which the steps are performed in the recited order. See e.g. section 38 (pp. IV-8 and IV-9) of "Landis on Mechanics of Patent Claim Draft" by Robert C. Faber, fourth edition, published by Practising Law Institute, 1999, which notes that:

... The elements of a method claim are typically recited in the sequence in which the steps are performed. ...

...  
Sometimes the description of a particular step inherently implies the order ... . In this case, the order need not be further expressly stated ... .

Regarding the combination of Kim with Wakatsuki, as applicant has argued, at the locations cited in the Office action (figures 7a-7c) what is disclosed is merely displaying on a communication terminal apparatus in "electronic comic mode" a plurality of still pictures downloaded from an electronic comic server (sometimes called a "center"). Applicant respectfully submits again that combining a teaching of displaying a funny on a communication terminal with a teaching of a sending terminal breaking a long message into components, sending the component messages to a receiving terminal, and the receiving terminal reassembling the component messages into the long message, cannot fairly be asserted to teach or suggest at least a step of a sending terminal assembling a plurality of messages in a desired order indicated by a user. The Office action asserts that applicant's response of July 2, 2004, concedes that the only difference between the invention as claimed in claims 1, 11 and 24 and the combined teachings of Kim and Wakatsuki is "the information being transmitted." Applicant's attorney wishes to clarify the record in that respect: as applicant has argued above, it is the acts themselves that distinguish method claim 1 from the combination made in the Office action, and it is the means recited in claim 11 that does the same, i.e. the combination made in the Office action does not teach or suggest at least the step of/ means for assembling a plurality of

messages in a desired order according to inputs by a user. The same can be argued for claim 24, as above.

At sections 4-5 of the Office action, the other claims are rejected under 35 USC §103.

For the reasons given above, claims 1, 11 and 24 are believed allowable, and applicant respectfully requests that the rejections of claims 1, 11 and 24, and also the rejections of the other claims in view of their dependencies, be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons it is believed that all of the claims now in the application are in condition for allowance and their passage to issue is earnestly solicited.

12 July 2005

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